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10/633,088	08/01/2003	Javier Garza Laguera Garza	35165552.13UTIL	3204

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BAKER & MCKENZIE  
PATENT DEPARTMENT  
2001 ROSS AVENUE  
SUITE 2300  
DALLAS, TX 75201

EXAMINER

HUYNH, KHOA D

ART UNIT PAPER NUMBER

3751

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/633,088

Applicant(s)

LAGUERA GARZA ET AL.

Examiner

Khoan D. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation "the inner portions" lacks antecedent basis. Also, it is unclear what structure constitute the claimed "the inner portions".

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 10 and 15, as presently understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Moore (2104714).

Regarding claim 10, the Moore reference discloses a toilet seat (Fig. 1).

The toilet has an inner rim, an outer rim and two vertically extending rigid members (22) located between the inner and outer rims of the left side and the right side of the toilet seat. The two vertically extending rigid member are

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positioned for alignment with the interior edge of the toilet bowl (Fig. 4) to prevent lateral displacement of the seat.

Regarding claim 15, the seat further includes a plurality of radially disposed support members (21) on the bottom surface of the toilet seat.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-9, as presently understood and given the broadest reasonable interpretations, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kayahara (6292956).

Regarding claim 1, the Kayahara reference discloses a toilet apparatus. The toilet apparatus includes a base portion (about 7) and a bowl portion (about 3). The Kayahara reference DIFFERS in that it does not specifically include the dimensions of the base portion and the bowl portion as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to employ any of one such width and length for the base portion and the bowl portion since discovering optimum values for such width and length of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claims 2-5, as schematically shown in Fig. 18, the base portion also includes a reinforced portion having a plurality of walls (at 8) extending from the base portion to the bowl portion. The reinforced portion (at 8) is aligned and corresponding with an anchorage point (about 9). Specifically, the anchorage point comprises two anchorage points (about 9) corresponding to the two reinforcing portions (at 8) are located on opposite sides of the base portion.

Regarding claims 6, the modified Kayahara reference DIFFERS in that it does not specifically disclose that the anchorage points located about 8.95 inches as claimed. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to mount the anchorage points about 8.95 inches since discovering an optimum value for such mounting locations involves only routine experiment or trial and error for one of skill in the art.

Regarding claim 7, the modified Kayahara also reference DIFFERS in that it does not specifically include the width and the length of the reinforced portion as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such width and length for the base portion since discovering an optimum value for width and length of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claims 8, the modified Kayahara also reference DIFFERS in that it does not specifically disclose the thickness of the wall of the base portion

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at least about .39 inches as claimed. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such thickness of the wall of the base portion since discovering an optimum value for such thickness involves only routine experiment or trial and error for one of skill in the art.

Regarding claims 9, the modified Kayahara also reference DIFFERS in that it does not specifically disclose the height of the toile apparatus is greater than about 17 inches as claimed. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such height for the toilet apparatus since discovering an optimum value for such height involves only routine experiment or trial and error for one of skill in the art.

7. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (as discussed above).

Regarding claim 11, the Moore reference DIFFERS in that it does not specifically include the width and length of the toilet seat as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to employ any of one such width and length for the toilet seat since discovering optimum values for such width and length involves only routine experiment or trial and error for one of skill in the art, especially since the Moore toilet seat is adjustable to various width to accommodate users of different sizes.

Regarding claim 12, the Moore reference also DIFFERS in that it does not specifically disclose that the width of the aperture formed by the inner rim is less than about half the width of the toilet seat as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such width of the aperture formed by the inner rim for the toilet seat since discovering optimum value for such width involves only routine experiment or trial and error for one of skill in the art, especially since the Moore toilet seat is adjustable to various width to accommodate users of different sizes (Fig. 1).

Regarding claim 13, the Moore reference also DIFFERS in that it does not specifically disclose that the length of the aperture formed by the inner rim is greater than about 2/3 the length of the toilet seat as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such length of the aperture formed by the inner rim for the toilet seat since discovering optimum value for such length of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 14 (as best understood), the Moore reference also DIFFERS in that it does not specifically disclose that the width of the aperture formed by the inner rim about 8.2 inches and the length of the aperture formed by the inner rim about 16.7 inches as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such width and length of the aperture formed by the inner rim for the

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toilet seat since discovering optimum value for such width and length involves only routine experiment or trial and error for one of skill in the art.

8. Claims 16-29, as presently understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (2104714) in view of Kayahara (6292956).

Regarding claim 16, the Moore reference discloses a toilet seat having claimed features as discussed above. The Moore reference does not specifically disclose a toilet base portion and a toilet bowl portion as claimed. Attention, however, is directed to the Kayahara reference which discloses a toilet having a base portion and a bowl portion (as discussed above). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Moore reference by employing a toilet having a base portion and a bowl portion in view of the teaching of Kayahara. Such modification would be considered a mere substitution of one functionally equivalent toilet with a base portion and a bowl portion for another within the toilet apparatus art that would work equally well on the Moore device. Furthermore, claim 16 only recites the elements individually (i.e. a base portion, a bowl portion and a toilet seat) and fails to provide structural connections between the elements. Thus, the combination of the Moore and Kayahara does teach applicant's invention as claimed.

Claims 17-29 are similar to claims 2-9 and 11-14 and rejected as discussed above.



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**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dillard, Moore ('927), JP 1085156 and JP 9-154774 were cited to show a toilet seat that is adjustable to accommodate persons of various sizes. Caldwell was cited to show a toilet seat having vertically extending members for preventing the seat from sliding.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (703) 306-5483. The examiner can normally be reached on M-F (7:00-4:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoa D. Huynh  
Patent Examiner  
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